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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2377 Session of 2022

INTRODUCED BY O'MARA, FREEMAN, SANCHEZ, ISAACSON, KINSEY, GUENST, MADDEN, HOWARD, ZABEL, HILL-EVANS, KENYATTA, WEBSTER, N. NELSON AND MERSKI, MARCH 8, 2022

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, MARCH 8, 2022

AN ACT

Amending the act of April 9, 1929 (P.L.343, No.176), entitled "An act relating to the finances of the State government; providing for cancer control, prevention and research, for ambulatory surgical center data collection, for the Joint Underwriting Association, for entertainment business financial management firms, for private dam financial assurance and for reinstatement of item vetoes; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth, authorizing the Commonwealth to issue tax anticipation notes to defray current expenses, implementing the provisions of section 7(a) of Article VIII of the Constitution of Pennsylvania authorizing and restricting the incurring of certain debt and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," in oil and gas wells, further providing for definitions and for Oil and Gas Lease Fund and providing for Public Natural Resources Trust Fund.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1601-E of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, is amended by adding a definition to read:

Section 1601-E. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this subarticle unless the context clearly indicates otherwise:

* * *

"Trust fund." The Public Natural Resources Trust Fund established in section 1601.3-E.

Section 2. Section 1601.2-E(e) of the act, amended May 29, 2020 (P.L.158, No.23), is amended to read:

Section 1601.2-E. Oil and Gas Lease Fund.

* * *

(e) Annual transfers.--The following apply:

(1) [(i) Except as provided under subparagraph (ii), for] For the [2017-2018] 2019-2020 fiscal year and each fiscal year thereafter, [$20,000,000] $35,000,000 shall be transferred from the fund to the Marcellus Legacy Fund for distribution to the Environmental Stewardship Fund.

[(ii) No amount shall be transferred from the fund to the Marcellus Legacy Fund for distribution to the Environmental Stewardship Fund for the 2019-2020 and 2020-2021 fiscal year.]

(2) For the 2017-2018 fiscal year and each fiscal year

thereafter, $15,000,000 shall be transferred from the fund to the Marcellus Legacy Fund for distribution to the Hazardous Sites Cleanup Fund.

(3) For the 2019-2020 fiscal year and each fiscal year thereafter, money shall be transferred from the fund as provided in section 1601.3-E.

(4) In the fiscal year following the fiscal year in which the principal of the trust fund exceeds the amount specified under section 1601.3-E(d)(2) and each fiscal year thereafter, all money in the fund shall be appropriated to the department as authorized under this section.

Section 3. The act is amended by adding a section to read:

Section 1601.3-E. Public Natural Resources Trust Fund.

(a) Establishment.--The Public Natural Resources Trust Fund is established as a special fund in the State Treasury.

(b) Revenue sources.--In addition to the transfers authorized in paragraph (1), the trust fund shall include money appropriated by the General Assembly, money received from the Federal Government and grants or donations from other sources. Interest and any other earnings shall remain in the trust fund. Gifts and donations of marketable securities may be held or disposed of for cash at the option of the State Treasurer. The cash receipts of gifts and donations of cash or capital assets and marketable securities disposed of for cash must be credited immediately to the principal of the trust fund. When marketable securities are disposed of for cash, the amount to be credited to the trust fund shall be the value of the marketable securities at the time of the gift or donation. The following apply:

(1) Beginning with the 2019-2020 fiscal year and each

fiscal year thereafter, all rents and royalties paid into the fund in excess of $70,000,000 shall be transferred to the trust fund.

(2) Disbursements from the trust fund shall be made only when the balance of the trust fund exceeds $700,000,000.

(c) Balance.--Money in the trust fund not expended or distributed in the fiscal year in which it was made available shall not lapse and shall be available for use under this section in the next fiscal year.

(d) Disposition.--

(1) For fiscal year 2019-2020 through the fiscal year following the fiscal year in which the principal of the trust fund exceeds $700,000,000, of the remaining rents and royalties paid into the fund after any transfer under subsection (b)(1):

(i) The department shall allocate 57% as follows:

(A) Forty percent for the department's community recreation and conservation program for grant funding of projects that meet the purposes specified under subsection (e).

(B) Sixty percent for use by the department for projects on State park and State forest land that meet the purposes set forth in subsection (e).

(ii) Forty-three percent shall be transferred to the Environmental Stewardship Fund, of which:

(A) Sixty-five percent shall be for use by the Department of Environmental Protection for projects that meet the purposes set forth in subsection (e).

(B) Thirty-five percent shall be for use by the Department of Agriculture for farmland preservation projects, not to exceed $15,000,000 in a fiscal year.

(2) For the fiscal year following the fiscal year in which the principal of the trust fund exceeds $700,000,000 and each fiscal year thereafter, the department may allocate from the trust fund an amount up to the amount of interest income derived from investment of money in the trust fund during the preceding fiscal year. The allocation under this paragraph is subject to the State Treasurer certifying in the financial report required under subsection (h) that making the allocation will not reduce the principal of the trust fund.

(3) The department shall allocate the money available under paragraph (2) in the same proportion as amounts allocated under paragraph (1).

(4) A disposition of money under this subsection that is inconsistent with the provisions of paragraph (1), (2) or (3) may be made through approval of a separate appropriations bill by a vote of two-thirds of the members elected to the Senate and the House of Representatives.

(e) Purposes.--The money in the trust fund may only be used for the following purposes:

(1) Public land conservation.

(2) Public recreation.

(3) Watershed protection.

(4) Acid mining drainage abatement and maintenance and operation of existing acid mining drainage projects.

(5) Heritage area projects.

(6) Conservation landscape initiatives of the department.

(7) Farmland preservation.

(8) Greenways.

(9) Green infrastructure for flood mitigation.

(10) Reforestation and urban canopy projects.

(11) Abandoned well plugging.

(12) Habitat restoration.

(13) Monitoring and mitigation of impacts or damage to State land caused by activity related to oil and gas development.

(14) Acquisition of replacement land and buffers to offset or prevent harm to State land caused by activity related to oil and gas development.

(15) Acquisition of oil, gas and other mineral rights located under State land.

(16) Educational programming by the department and grant recipients of the department, with a focus on science-based natural resource conservation.

(17) Scientific research related to the other purposes listed under this subsection.

(18) The annual audit required under subsection (j).

(19) The trust fund reports required under this section.

(f) Limitation.--Money in the trust fund may not be used to fund maintenance or operating expenses, unless the expenses are directly related to acid mining drainage projects existing as of the effective date of this subsection.

(g) Supplemental funding.--Money in the trust fund shall supplement funding from the General Fund, including the sources of funding for the purposes listed in subsection (e). Money in the trust fund may not be used to supplant existing General Fund appropriations to the department or to any other agency of the Commonwealth.

(h) Financial report.--The State Treasurer shall complete and submit an annual financial report of the trust fund to the Governor, the Attorney General and the Auditor General. The report shall be submitted within 30 days of the end of the first full fiscal year following the effective date of this subsection and within 30 days of the end of each fiscal year thereafter. The report shall contain the following:

(1) A statement of the principal then held in the trust fund and any changes in the principal since the report of the prior fiscal year.

(2) A statement of the trust fund income received during the fiscal year in question.

(3) A statement of the investments then held in the trust fund, including descriptions and respective values of the investments.

(4) Any other information determined by the State Treasurer to reflect a full and complete disclosure of the financial operations of the trust fund.

(i) Expenditure report.--The department shall complete and submit an annual report of the expenditures authorized in subsection (d) to the Governor, the Attorney General and the chairperson and minority chairperson of the Environmental Resources and Energy Committee of the Senate and the chairperson and minority chairperson of the Environmental Resources and Energy Committee of the House of Representatives. The report shall be submitted within 45 days of the end of the first fiscal year following the effective date of this subsection and within 45 days of the end of each fiscal year thereafter. The department shall post and maintain each report on the department's publicly accessible Internet website. The report shall contain the following:

(1) For fiscal year 2019-2020 through the fiscal year following the fiscal year in which the principal of the trust fund exceeds $700,000,000:

(i) A description and accounting of all expenditures and distributions from the fund for the preceding fiscal year.

(ii) An outline of the objectives and planned expenditures from the fund for the next fiscal year.

(2) For the fiscal year following the fiscal year in which the principal of the trust fund exceeds $700,000,000 and each fiscal year thereafter:

(i) A description and accounting for all expenditures and distributions by the trust fund for the preceding fiscal year.

(ii) An outline of the objectives and planned expenditures from the trust fund for the next fiscal year.

(j) Audit.--The Auditor General shall perform an audit of the trust fund each fiscal year. Costs of the audit shall be paid out of the trust fund.

(k) Public information.--Information in the possession of the department, the Treasury Department, the Department of Environmental Protection and the Department of Agriculture relating to the trust fund shall be considered a public record under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Section 4. This act shall take effect immediately.